

AMENDED IN ASSEMBLY MARCH 22, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 753**

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**Introduced by Assembly Member Monning**

February 17, 2011

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An act to amend Section 1936 of the Civil Code, relating to vehicle ~~rental contracts~~ *rentals*.

LEGISLATIVE COUNSEL'S DIGEST

AB 753, as amended, Monning. ~~Vehicle rental contracts. The Raechel and Jacqueline Houck Rental Car Safety Act: vehicle rentals.~~

*Under existing federal law, when a manufacturer of motor vehicles or replacement equipment determines that any motor vehicle or item of replacement equipment produced by the manufacturer contains a defect that relates to motor vehicle safety, or fails to conform to an applicable federal motor vehicle safety standard, the manufacturer is required to provide notification to owners, dealers, and distributors of motor vehicles and replacement equipment, as specified.*

*Existing state law requires a vehicle rental company to make certain disclosures to a person who rents a vehicle.*

*This bill would enact the Raechel and Jacqueline Houck Rental Car Safety Act, which would prohibit a rental company from renting a vehicle to a person if the vehicle is subject to a safety recall pursuant to specified provisions of federal law, unless the repairs required to comply with the federal law have been performed on the vehicle.*

~~Existing law authorizes a vehicle rental company and a renter of a passenger vehicle to agree that the renter will be responsible for, among other things, loss due to theft of the rented vehicle up to its fair market value. Under those provisions, a renter is presumed to not have liability~~

~~due to theft if certain conditions are met, including, among others, that an authorized driver files an official report of the theft with police or other law enforcement agency within 24 hours of learning of the theft.~~

~~This bill instead would require the authorized driver to file that report within 48 hours of learning of the theft.~~

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. This act shall be known, and may be cited, as the*  
2     *Raechel and Jacqueline Houck Rental Car Safety Act.*

3     ~~SECTION 1.~~

4     *SEC. 2.* Section 1936 of the Civil Code is amended to read:

5     1936. (a) For the purpose of this section, the following  
6     definitions shall apply:

7     (1) “Rental company” means a person or entity in the business  
8     of renting passenger vehicles to the public.

9     (2) “Renter” means any person in a manner obligated under a  
10    contract for the lease or hire of a passenger vehicle from a rental  
11    company for a period of less than 30 days.

12    (3) “Authorized driver” means (A) the renter, (B) the renter’s  
13    spouse if that person is a licensed driver and satisfies the rental  
14    company’s minimum age requirement, (C) the renter’s employer  
15    or coworker if he or she is engaged in business activity with the  
16    renter, is a licensed driver, and satisfies the rental company’s  
17    minimum age requirement, and (D) a person expressly listed by  
18    the rental company on the renter’s contract as an authorized driver.

19    (4) (A) “Customer facility charge” means any fee, including  
20    an alternative fee, required by an airport to be collected by a rental  
21    company from a renter for any of the following purposes:

22    (i) To finance, design, and construct consolidated airport car  
23    rental facilities.

24    (ii) To finance, design, construct, and operate common-use  
25    transportation systems that move passengers between airport  
26    terminals and those consolidated car rental facilities, and acquire  
27    vehicles for use in that system.

28    (iii) To finance, design, and construct terminal modifications  
29    solely to accommodate and provide customer access to  
30    common-use transportation systems.

(B) The aggregate amount to be collected shall not exceed the reasonable costs, as determined by an independent audit paid for by the airport, to finance, design, and construct those facilities. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing. In the case of a transportation system, the audit also shall consider the reasonable costs of providing the transit system or busing network. Notwithstanding clause (iii) of subparagraph (A), the fees designated as a customer facility charge shall not be used to pay for terminal expansion, gate expansion, runway expansion, changes in hours of operation, or changes in the number of flights arriving or departing from the airport.

(C) Except as provided in subparagraph (D), the authorization given pursuant to this section for an airport to impose a customer facility charge shall become inoperative when the bonds used for financing are paid.

(D) If a bond or other form of indebtedness is not used for financing, or the bond or other form of indebtedness used for financing has been paid, the Oakland International Airport may require the collection of a customer facility charge for a period of up to 10 years from the imposition of the charge for the purposes allowed by, and subject to the conditions imposed by, this section.

(5) “Damage waiver” means a rental company’s agreement not to hold a renter liable for all or any portion of any damage or loss related to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing, or administrative charges.

(6) “Electronic surveillance technology” means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. “Electronic surveillance technology” does not include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used either:

(A) For the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the rental vehicle.

(B) As part of the vehicle’s airbag sensing and diagnostic system in order to capture safety systems-related data for retrieval after a crash has occurred or in the event that the collision sensors are

1 activated to prepare the decisionmaking computer to make the  
2 determination to deploy or not to deploy the airbag.

3 (7) “Estimated time for replacement” means the number of hours  
4 of labor, or fraction thereof, needed to replace damaged vehicle  
5 parts as set forth in collision damage estimating guides generally  
6 used in the vehicle repair business and commonly known as “crash  
7 books.”

8 (8) “Estimated time for repair” means a good faith estimate of  
9 the reasonable number of hours of labor, or fraction thereof, needed  
10 to repair damaged vehicle parts.

11 (9) “Membership program” means a service offered by a rental  
12 company that permits customers to bypass the rental counter and  
13 go directly to the car previously reserved. A membership program  
14 shall meet all of the following requirements:

15 (A) The renter initiates enrollment by completing an application  
16 on which the renter can specify a preference for type of vehicle  
17 and acceptance or declination of optional services.

18 (B) The rental company fully discloses, prior to the enrollee’s  
19 first rental as a participant in the program, all terms and conditions  
20 of the rental agreement as well as all required disclosures.

21 (C) The renter may terminate enrollment at any time.

22 (D) The rental company fully explains to the renter that  
23 designated preferences, as well as acceptance or declination of  
24 optional services, may be changed by the renter at any time for  
25 the next and future rentals.

26 (E) An employee designated to receive the form specified in  
27 subparagraph (C) of paragraph (1) of subdivision (t) is present at  
28 the lot where the renter takes possession of the car, to receive any  
29 change in the rental agreement from the renter.

30 (10) “Passenger vehicle” means a passenger vehicle as defined  
31 in Section 465 of the Vehicle Code.

32 (b) Except as limited by subdivision (c), a rental company and  
33 a renter may agree that the renter will be responsible for no more  
34 than all of the following:

35 (1) Physical or mechanical damage to the rented vehicle up to  
36 its fair market value, as determined in the customary market for  
37 the sale of that vehicle, resulting from collision regardless of the  
38 cause of the damage.

39 (2) Loss due to theft of the rented vehicle up to its fair market  
40 value, as determined in the customary market for the sale of that

1 vehicle, provided that the rental company establishes by clear and  
2 convincing evidence that the renter or the authorized driver failed  
3 to exercise ordinary care while in possession of the vehicle. In  
4 addition, the renter shall be presumed to have no liability for any  
5 loss due to theft if (A) an authorized driver has possession of the  
6 ignition key furnished by the rental company or an authorized  
7 driver establishes that the ignition key furnished by the rental  
8 company was not in the vehicle at the time of the theft, and (B) an  
9 authorized driver files an official report of the theft with the police  
10 or other law enforcement agency within ~~48~~ 24 hours of learning  
11 of the theft and reasonably cooperates with the rental company  
12 and the police or other law enforcement agency in providing  
13 information concerning the theft. The presumption set forth in this  
14 paragraph is a presumption affecting the burden of proof which  
15 the rental company may rebut by establishing that an authorized  
16 driver committed, or aided and abetted the commission of, the  
17 theft.

18 (3) Physical damage to the rented vehicle up to its fair market  
19 value, as determined in the customary market for the sale of that  
20 vehicle, resulting from vandalism occurring after, or in connection  
21 with, the theft of the rented vehicle. However, the renter shall have  
22 no liability for any damage due to vandalism if the renter would  
23 have no liability for theft pursuant to paragraph (2).

24 (4) Physical damage to the rented vehicle up to a total of five  
25 hundred dollars (\$500) resulting from vandalism unrelated to the  
26 theft of the rented vehicle.

27 (5) Actual charges for towing, storage, and impound fees paid  
28 by the rental company if the renter is liable for damage or loss.

29 (6) An administrative charge, which shall include the cost of  
30 appraisal and all other costs and expenses incident to the damage,  
31 loss, repair, or replacement of the rented vehicle.

32 (c) The total amount of the renter's liability to the rental  
33 company resulting from damage to the rented vehicle shall not  
34 exceed the sum of the following:

35 (1) The estimated cost of parts which the rental company would  
36 have to pay to replace damaged vehicle parts. All discounts and  
37 price reductions or adjustments that are or will be received by the  
38 rental company shall be subtracted from the estimate to the extent  
39 not already incorporated in the estimate, or otherwise promptly  
40 credited or refunded to the renter.

(2) The estimated cost of labor to replace damaged vehicle parts, which shall not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(3) (A) The estimated cost of labor to repair damaged vehicle parts, which shall not exceed the lesser of the following:

(i) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(ii) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(B) All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total estimated cost for parts and labor is more than one hundred dollars (\$100) up to and including five hundred dollars (\$500), (B) one hundred dollars (\$100) if the total estimated cost for parts and labor exceeds five hundred dollars (\$500) up to and including one thousand five hundred dollars (\$1,500), and (C) one hundred fifty dollars (\$150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars (\$1,500). An administrative charge shall not be imposed if the total estimated cost of parts and labor is one hundred dollars (\$100) or less.

(d) (1) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle shall not exceed the amount of the renter's liability under subdivision (c).

1 (2) A rental company shall not recover from the renter or other  
2 authorized driver an amount exceeding the renter's liability under  
3 subdivision (c).

4 (3) A claim against a renter resulting from damage or loss,  
5 excluding loss of use, to a rental vehicle shall be reasonably and  
6 rationally related to the actual loss incurred. A rental company  
7 shall mitigate damages where possible and shall not assert or collect  
8 a claim for physical damage which exceeds the actual costs of the  
9 repairs performed or the estimated cost of repairs, if the rental  
10 company chooses not to repair the vehicle, including all discounts  
11 and price reductions. However, if the vehicle is a total loss vehicle,  
12 the claim shall not exceed the total loss vehicle value established  
13 in accordance with procedures that are customarily used by  
14 insurance companies when paying claims on total loss vehicles,  
15 less the proceeds from salvaging the vehicle, if those proceeds are  
16 retained by the rental company.

17 (4) If insurance coverage exists under the renter's applicable  
18 personal or business insurance policy and the coverage is confirmed  
19 during regular business hours, the renter may require that the rental  
20 company submit any claims to the renter's applicable personal or  
21 business insurance carrier. The rental company shall not make any  
22 written or oral representations that it will not present claims or  
23 negotiate with the renter's insurance carrier. For purposes of this  
24 paragraph, confirmation of coverage includes telephone  
25 confirmation from insurance company representatives during  
26 regular business hours. Upon request of the renter and after  
27 confirmation of coverage, the amount of claim shall be resolved  
28 between the insurance carrier and the rental company. The renter  
29 shall remain responsible for payment to the rental car company  
30 for any loss sustained that the renter's applicable personal or  
31 business insurance policy does not cover.

32 (5) A rental company shall not recover from the renter or other  
33 authorized driver for an item described in subdivision (b) to the  
34 extent the rental company obtains recovery from another person.

35 (6) This section applies only to the maximum liability of a renter  
36 or other authorized driver to the rental company resulting from  
37 damage to the rented vehicle and not to the liability of another  
38 person.

39 (e) (1) Except as provided in subdivision (f), a damage waiver  
40 shall provide or, if not expressly stated in writing, shall be deemed

1 to provide that the renter has no liability for a damage, loss, loss  
2 of use, or a cost or expense incident thereto.

3 (2) Except as provided in subdivision (f), every limitation,  
4 exception, or exclusion to a damage waiver is void and  
5 unenforceable.

6 (f) A rental company may provide in the rental contract that a  
7 damage waiver does not apply under any of the following  
8 circumstances:

9 (1) Damage or loss results from an authorized driver's (A)  
10 intentional, willful, wanton, or reckless conduct, (B) operation of  
11 the vehicle under the influence of drugs or alcohol in violation of  
12 Section 23152 of the Vehicle Code, (C) towing or pushing  
13 anything, or (D) operation of the vehicle on an unpaved road if  
14 the damage or loss is a direct result of the road or driving  
15 conditions.

16 (2) Damage or loss occurs while the vehicle is (A) used for  
17 commercial hire, (B) used in connection with conduct that could  
18 be properly charged as a felony, (C) involved in a speed test or  
19 contest or in driver training activity, (D) operated by a person other  
20 than an authorized driver, or (E) operated outside the United States.

21 (3) An authorized driver who has (A) provided fraudulent  
22 information to the rental company, or (B) provided false  
23 information and the rental company would not have rented the  
24 vehicle if it had instead received true information.

25 (g) (1) A rental company that offers or provides a damage  
26 waiver for any consideration in addition to the rental rate shall  
27 clearly and conspicuously disclose the following information in  
28 the rental contract or holder in which the contract is placed and,  
29 also, in signs posted at the place, such as the counter, where the  
30 renter signs the rental contract, and, for renters who are enrolled  
31 in the rental company's membership program, in a sign that shall  
32 be posted in a location clearly visible to those renters as they enter  
33 the location where their reserved rental cars are parked or near the  
34 exit of the bus or other conveyance that transports the enrollee to  
35 a reserved car: (A) the nature of the renter's liability, such as  
36 liability for all collision damage regardless of cause, (B) the extent  
37 of the renter's liability, such as liability for damage or loss up to  
38 a specified amount, (C) the renter's personal insurance policy or  
39 the credit card used to pay for the car rental transaction may  
40 provide coverage for all or a portion of the renter's potential



1 liability, (D) the renter should consult with his or her insurer to  
2 determine the scope of insurance coverage, including the amount  
3 of the deductible, if any, for which the renter is obligated, (E) the  
4 renter may purchase an optional damage waiver to cover all  
5 liability, subject to whatever exceptions the rental company  
6 expressly lists that are permitted under subdivision (f), and (F) the  
7 range of charges for the damage waiver.

8 (2) In addition to the requirements of paragraph (1), a rental  
9 company that offers or provides a damage waiver shall orally  
10 disclose to all renters, except those who are participants in the  
11 rental company's membership program, that the damage waiver  
12 may be duplicative of coverage that the customer maintains under  
13 his or her own policy of motor vehicle insurance. The renter's  
14 receipt of the oral disclosure shall be demonstrated through the  
15 renter's acknowledging receipt of the oral disclosure near that part  
16 of the contract where the renter indicates, by the renter's own  
17 initials, his or her acceptance or declination of the damage waiver.  
18 Adjacent to that same part, the contract also shall state that the  
19 damage waiver is optional. Further, the contract for these renters  
20 shall include a clear and conspicuous written disclosure that the  
21 damage waiver may be duplicative of coverage that the customer  
22 maintains under his or her own policy of motor vehicle insurance.

23 (3) The following is an example, for purposes of illustration  
24 and not limitation, of a notice fulfilling the requirements of  
25 paragraph (1) for a rental company that imposes liability on the  
26 renter for collision damage to the full value of the vehicle:

27  
28 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY  
29 AND OPTIONAL DAMAGE WAIVER  
30

31 You are responsible for all collision damage to the rented vehicle  
32 even if someone else caused it or the cause is unknown. You are  
33 responsible for the cost of repair up to the value of the vehicle,  
34 and towing, storage, and impound fees.

35 Your own insurance, or the issuer of the credit card you use to  
36 pay for the car rental transaction, may cover all or part of your  
37 financial responsibility for the rented vehicle. You should check  
38 with your insurance company, or credit card issuer, to find out  
39 about your coverage and the amount of the deductible, if any, for  
40 which you may be liable.

1 Further, if you use a credit card that provides coverage for your  
2 potential liability, you should check with the issuer to determine  
3 if you must first exhaust the coverage limits of your own insurance  
4 before the credit card coverage applies.

5 The rental company will not hold you responsible if you buy a  
6 damage waiver. But a damage waiver will not protect you if (list  
7 exceptions).”

8 (A) When the above notice is printed in the rental contract or  
9 holder in which the contract is placed, the following shall be printed  
10 immediately following the notice:

11 “The cost of an optional damage waiver is \$\_\_\_\_\_ for every (day  
12 or week).”

13 (B) When the above notice appears on a sign, the following  
14 shall appear immediately adjacent to the notice:

15 “The cost of an optional damage waiver is \$\_\_\_\_\_ to \$\_\_\_\_\_ for  
16 every (day or week), depending upon the vehicle rented.”

17 (h) Notwithstanding any other provision of law, a rental  
18 company may sell a damage waiver subject to the following rate  
19 limitations for each full or partial 24-hour rental day for the damage  
20 waiver.

21 (1) For rental vehicles that the rental company designates as an  
22 “economy car,” “subcompact car,” “compact car,” or another term  
23 having similar meaning when offered for rental, or another vehicle  
24 having a manufacturer’s suggested retail price of nineteen thousand  
25 dollars (\$19,000) or less, the rate shall not exceed nine dollars  
26 (\$9).

27 (2) For rental vehicles that have a manufacturer’s suggested  
28 retail price from nineteen thousand one dollars (\$19,001) to  
29 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),  
30 inclusive, and that are also either vehicles of next year’s model,  
31 or not older than the previous year’s model, the rate shall not  
32 exceed fifteen dollars (\$15). For those rental vehicles older than  
33 the previous year’s model-year, the rate shall not exceed nine  
34 dollars (\$9).

35 (i) The manufacturer’s suggested retail prices described in  
36 subdivision (h) shall be adjusted annually to reflect changes from  
37 the previous year in the Consumer Price Index. For the purposes  
38 of this section, “Consumer Price Index” means the United States  
39 Consumer Price Index for All Urban Consumers, for all items.

1 (j) A rental company that disseminates in this state an  
2 advertisement containing a rental rate shall include in that  
3 advertisement a clearly readable statement of the charge for a  
4 damage waiver and a statement that a damage waiver is optional.

5 (k) (1) A rental company shall not require the purchase of a  
6 damage waiver, optional insurance, or another optional good or  
7 service.

8 (2) A rental company shall not engage in any unfair, deceptive,  
9 or coercive conduct to induce a renter to purchase the damage  
10 waiver, optional insurance, or another optional good or service,  
11 including conduct such as, but not limited to, refusing to honor  
12 the renter's reservation, limiting the availability of vehicles,  
13 requiring a deposit, or debiting or blocking the renter's credit card  
14 account for a sum equivalent to a deposit if the renter declines to  
15 purchase the damage waiver, optional insurance, or another  
16 optional good or service.

17 (l) (1) In the absence of express permission granted by the  
18 renter subsequent to damage to, or loss of, the vehicle, a rental  
19 company shall not seek to recover any portion of a claim arising  
20 out of damage to, or loss of, the rented vehicle by processing a  
21 credit card charge or causing a debit or block to be placed on the  
22 renter's credit card account.

23 (2) A rental company shall not engage in any unfair, deceptive,  
24 or coercive tactics in attempting to recover or in recovering on any  
25 claim arising out of damage to, or loss of, the rented vehicle.

26 (m) (1) A customer facility charge may be collected by a rental  
27 company under the following circumstances:

28 (A) Collection of the fee by the rental company is required by  
29 an airport operated by a city, a county, a city and county, a joint  
30 powers authority, a special district, or the San Diego County  
31 Regional Airport Authority formed pursuant to Division 17  
32 (commencing with Section 170000) of the Public Utilities Code.

33 (B) The fee is calculated on a per contract basis or as provided  
34 in paragraph (2).

35 (C) The fee is a user fee, not a tax imposed upon real property  
36 or an incidence of property ownership under Article XIII D of the  
37 California Constitution.

38 (D) Except as otherwise provided in subparagraph (E), the fee  
39 shall be ten dollars (\$10) per contract or the amount provided in  
40 paragraph (2).

(E) The fee for a consolidated rental car facility shall be collected only from customers of on-airport rental car companies. If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars (\$10) or the amount provided in paragraph (2), but the fee imposed on customers of off-airport rental car companies who are transported on the common-use transportation system is proportionate to the costs of the common-use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this subparagraph, “on-airport rental car company” means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental car facility and the collection of the fee as to those customers is consistent with subparagraph (C).

(F) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, and constructing the facility and financing, designing, constructing, and operating any common-use transportation system, or acquiring vehicles for use in that system, and shall not be used for any other purpose.

(G) The fee is separately identified on the rental agreement.

(H) This paragraph does not apply to fees which are governed by Section 50474.1 of the Government Code or Section 57.5 of the San Diego Unified Port District Act.

(I) For any airport seeking to require rental car companies to collect an alternative customer facility charge pursuant to paragraph (2), the following provisions apply:

(i) Notwithstanding Section 10231.5 of the Government Code, the airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(I) The total amount of the customer facility charge collected.

(II) How the funds are being spent.

(III) The amount of and reason for any changes in the airport’s budget or financial needs for the facility or common-use transportation system.

1 (IV) Whether airport concession fees authorized by Section  
2 1936.01 have increased since the prior report, if any.

3 (ii) The airport shall complete the independent audit required  
4 by subparagraph (B) of paragraph (4) of subdivision (a) prior to  
5 initial collection of the customer facility charge, prior to any  
6 increase pursuant to paragraph (2), and every three years after  
7 initial collection and any increase until such time as the fee  
8 authorization becomes inoperative pursuant to subparagraph (C)  
9 of paragraph (4) of subdivision (a). The Controller shall review  
10 those audits and independently examine and substantiate the  
11 necessity for and the amount of the customer facility charge. The  
12 Controller's costs shall be reimbursed by the individual airport  
13 being audited. Notwithstanding Section 10231.5 of the Government  
14 Code, the Controller shall report to the Legislature on its  
15 conclusions, including whether the airport's actual or projected  
16 costs are supported and justified, any steps the airport may take to  
17 limit costs, potential alternatives for meeting the airport's revenue  
18 needs other than the collection of the fee, and whether and to what  
19 extent car rental companies or other businesses or individuals using  
20 the facility or common-use transportation system may pay for the  
21 costs associated with these facilities and systems other than the  
22 fee from rental customers, or whether the airport did not comply  
23 with any provision of this subparagraph.

24 (iii) Use of the bonds shall be limited to construction and design  
25 of the consolidated rental car facility, terminal modifications, and  
26 operating costs of the common-use transportation system, as  
27 specified in paragraph (4) of subdivision (a).

28 (2) Any airport may require rental car companies to collect an  
29 alternative customer facility charge under the following conditions:

30 (A) The airport first conducts a publicly noticed hearing pursuant  
31 to the Ralph M. Brown Act (Chapter 9 (commencing with Section  
32 54950) of Part 1 of Division 2 of Title 5 of the Government Code)  
33 to review the costs of financing the design and construction of a  
34 consolidated rental car facility and the design, construction, and  
35 operation of any common-use transportation system in which all  
36 of the following occur:

37 (i) The airport establishes the amount of revenue necessary to  
38 finance the reasonable cost to design and construct a consolidated  
39 rental car facility and to design, construct, and operate any

1 common-use transportation system, or acquire vehicles for use in  
2 that system, based on evidence presented during the hearing.

3 (ii) The airport finds, based on evidence presented during the  
4 hearing, that the fee authorized in paragraph (1) will not generate  
5 sufficient revenue to finance the reasonable costs to design and  
6 construct a consolidated rental car facility and to design, construct,  
7 and operate any common-use transportation system, or acquire  
8 vehicles for use in that system.

9 (iii) The airport finds that the reasonable cost of the project  
10 requires the additional amount of revenue that would be generated  
11 by the proposed daily rate, including any rate increase, authorized  
12 pursuant to this paragraph.

13 (iv) The airport outlines each of the following:

14 (I) Steps it has taken to limit costs.

15 (II) Other potential alternatives for meeting its revenue needs  
16 other than the collection of the fee.

17 (III) The extent to which rental car companies or other  
18 businesses or individuals using the facility or common-use  
19 transportation system will pay for the costs associated with these  
20 facilities and systems other than the fee from rental customers.

21 (v) The Controller reviews and substantiates the need for and  
22 amount of the fee pursuant to clause (ii) of subparagraph (I) of  
23 paragraph (1).

24 (B) The airport may not require the fee authorized in this  
25 paragraph to be collected at any time that the fee authorized in  
26 paragraph (1) of this subdivision is being collected.

27 (C) Pursuant to the procedure set forth in this subdivision, the  
28 fee may be collected at a rate charged on a per-day basis subject  
29 to the following conditions:

30 (i) Commencing January 1, 2011, the amount of the fee may  
31 not exceed six dollars (\$6) per day.

32 (ii) Commencing January 1, 2014, the amount of the fee may  
33 not exceed seven dollars and fifty cents (\$7.50) per day.

34 (iii) Commencing January 1, 2017, and thereafter, the amount  
35 of the fee may not exceed nine dollars (\$9) per day.

36 (iv) At no time shall the fee authorized in this paragraph be  
37 collected from any customer for more than five days for each  
38 individual rental car contract.

39 (v) An airport subject to this paragraph shall initiate the process  
40 for obtaining the authority to require or increase the alternative

1 fee no later than January 1, 2018. Any airport that obtains the  
2 authority to require or increase an alternative fee shall be authorized  
3 to continue collecting that fee until the fee authorization becomes  
4 inoperative pursuant to subparagraph (C) of paragraph (4) of  
5 subdivision (a).

6 (3) Notwithstanding any other provision of law, including, but  
7 not limited to, Part 1 (commencing with Section 6001) to Part 1.7  
8 (commencing with Section 7280), inclusive, of Division 2 of the  
9 Revenue and Taxation Code, the fees collected pursuant to this  
10 section, or another law whereby a local agency operating an airport  
11 requires a rental car company to collect a facility financing fee  
12 from its customers, are not subject to sales, use, or transaction  
13 taxes.

14 (n) (1) A rental company shall only advertise, quote, and charge  
15 a rental rate that includes the entire amount except taxes, a  
16 customer facility charge, if any, and a mileage charge, if any, that  
17 a renter must pay to hire or lease the vehicle for the period of time  
18 to which the rental rate applies. A rental company shall not charge  
19 in addition to the rental rate, taxes, a customer facility charge, if  
20 any, and a mileage charge, if any, any fee that is required to be  
21 paid by the renter as a condition of hiring or leasing the vehicle,  
22 including, but not limited to, required fuel or airport surcharges  
23 other than customer facility charges, nor a fee for transporting the  
24 renter to the location where the rented vehicle will be delivered to  
25 the renter.

26 (2) In addition to the rental rate, taxes, customer facility charges,  
27 if any, and mileage charges, if any, a rental company may charge  
28 for an item or service provided in connection with a particular  
29 rental transaction if the renter could have avoided incurring the  
30 charge by choosing not to obtain or utilize the optional item or  
31 service. Items and services for which the rental company may  
32 impose an additional charge include, but are not limited to, optional  
33 insurance and accessories requested by the renter, service charges  
34 incident to the renter's optional return of the vehicle to a location  
35 other than the location where the vehicle was hired or leased, and  
36 charges for refueling the vehicle at the conclusion of the rental  
37 transaction in the event the renter did not return the vehicle with  
38 as much fuel as was in the fuel tank at the beginning of the rental.  
39 A rental company also may impose an additional charge based on  
40 reasonable age criteria established by the rental company.

1 (3) A rental company shall not charge a fee for authorized  
2 drivers in addition to the rental charge for an individual renter.

3 (4) If a rental company states a rental rate in print advertisement  
4 or in a telephonic, in-person, or computer-transmitted quotation,  
5 the rental company shall disclose clearly in that advertisement or  
6 quotation the terms of mileage conditions relating to the advertised  
7 or quoted rental rate, including, but not limited to, to the extent  
8 applicable, the amount of mileage and gas charges, the number of  
9 miles for which no charges will be imposed, and a description of  
10 geographic driving limitations within the United States and Canada.

11 (5) (A) When a rental rate is stated in an advertisement,  
12 quotation, or reservation in connection with a car rental at an airport  
13 where a customer facility charge is imposed, the rental company  
14 shall disclose clearly the existence and amount of the customer  
15 facility charge. For purposes of this subparagraph, advertisements  
16 include radio, television, other electronic media, and print  
17 advertisements. For purposes of this subparagraph, quotations and  
18 reservations include those that are telephonic, in-person, and  
19 computer-transmitted. If the rate advertisement is intended to  
20 include transactions at more than one airport imposing a customer  
21 facility charge, a range of fees may be stated in the advertisement.  
22 However, all rate advertisements that include car rentals at airport  
23 destinations shall clearly and conspicuously include a toll-free  
24 telephone number whereby a customer can be told the specific  
25 amount of the customer facility charge to which the customer will  
26 be obligated.

27 (B) If a person or entity other than a rental car company,  
28 including a passenger carrier or a seller of travel services, advertises  
29 or quotes a rate for a car rental at an airport where a customer  
30 facility charge is imposed, that person or entity shall, provided  
31 that he, she, or it is provided with information about the existence  
32 and amount of the fee, to the extent not specifically prohibited by  
33 federal law, clearly disclose the existence and amount of the fee  
34 in any telephonic, in-person, or computer-transmitted quotation at  
35 the time of making an initial quotation of a rental rate and at the  
36 time of making a reservation of a rental car. If a rental car company  
37 provides the person or entity with rate and customer facility charge  
38 information, the rental car company is not responsible for the  
39 failure of that person or entity to comply with this subparagraph  
40 when quoting or confirming a rate to a third person or entity.



1 (6) If a rental company delivers a vehicle to a renter at a location  
2 other than the location where the rental company normally carries  
3 on its business, the rental company shall not charge the renter an  
4 amount for the rental for the period before the delivery of the  
5 vehicle. If a rental company picks up a rented vehicle from a renter  
6 at a location other than the location where the rental company  
7 normally carries on its business, the rental company shall not  
8 charge the renter an amount for the rental for the period after the  
9 renter notifies the rental company to pick up the vehicle.

10 (o) A rental company shall not use, access, or obtain any  
11 information relating to the renter's use of the rental vehicle that  
12 was obtained using electronic surveillance technology, except in  
13 the following circumstances:

14 (1) (A) When the equipment is used by the rental company  
15 only for the purpose of locating a stolen, abandoned, or missing  
16 rental vehicle after one of the following:

17 (i) The renter or law enforcement has informed the rental  
18 company that the vehicle is missing or has been stolen or  
19 abandoned.

20 (ii) The rental vehicle has not been returned following one week  
21 after the contracted return date, or by one week following the end  
22 of an extension of that return date.

23 (iii) The rental company discovers the rental vehicle has been  
24 stolen or abandoned, and, if stolen, it shall report the vehicle stolen  
25 to law enforcement by filing a stolen vehicle report, unless law  
26 enforcement has already informed the rental company that the  
27 vehicle is missing or has been stolen or abandoned.

28 (B) If electronic surveillance technology is activated pursuant  
29 to subparagraph (A), a rental company shall maintain a record, in  
30 either electronic or written form, of information relevant to the  
31 activation of that technology. That information shall include the  
32 rental agreement, including the return date, and the date and time  
33 the electronic surveillance technology was activated. The record  
34 shall also include, if relevant, a record of written or other  
35 communication with the renter, including communications  
36 regarding extensions of the rental, police reports, or other written  
37 communication with law enforcement officials. The record shall  
38 be maintained for a period of at least 12 months from the time the  
39 record is created and shall be made available upon the renter's  
40 request. The rental company shall maintain and furnish explanatory

1 codes necessary to read the record. A rental company shall not be  
2 required to maintain a record if electronic surveillance technology  
3 is activated to recover a rental vehicle that is stolen or missing at  
4 a time other than during a rental period.

5 (2) In response to a specific request from law enforcement  
6 pursuant to a subpoena or search warrant.

7 (3) This subdivision does not prohibit a rental company from  
8 equipping rental vehicles with GPS-based technology that provides  
9 navigation assistance to the occupants of the rental vehicle, if the  
10 rental company does not use, access, or obtain information relating  
11 to the renter's use of the rental vehicle that was obtained using  
12 that technology, except for the purposes of discovering or repairing  
13 a defect in the technology and the information may then be used  
14 only for that purpose.

15 (4) This subdivision does not prohibit a rental company from  
16 equipping rental vehicles with electronic surveillance technology  
17 that allows for the remote locking or unlocking of the vehicle at  
18 the request of the renter, if the rental company does not use, access,  
19 or obtain information relating to the renter's use of the rental  
20 vehicle that was obtained using that technology, except as  
21 necessary to lock or unlock the vehicle.

22 (5) This subdivision does not prohibit a rental company from  
23 equipping rental vehicles with electronic surveillance technology  
24 that allows the company to provide roadside assistance, such as  
25 towing, flat tire, or fuel services, at the request of the renter, if the  
26 rental company does not use, access, or obtain information relating  
27 to the renter's use of the rental vehicle that was obtained using  
28 that technology except as necessary to provide the requested  
29 roadside assistance.

30 (6) This subdivision does not prohibit a rental company from  
31 obtaining, accessing, or using information from electronic  
32 surveillance technology for the sole purpose of determining the  
33 date and time the vehicle is returned to the rental company, and  
34 the total mileage driven and the vehicle fuel level of the returned  
35 vehicle. This paragraph, however, shall apply only after the renter  
36 has returned the vehicle to the rental company, and the information  
37 shall only be used for the purpose described in this paragraph.

38 (p) A rental company shall not use electronic surveillance  
39 technology to track a renter in order to impose fines or surcharges  
40 relating to the renter's use of the rental vehicle.

1 (q) A renter may bring an action against a rental company for  
2 the recovery of damages and appropriate equitable relief for a  
3 violation of this section. The prevailing party shall be entitled to  
4 recover reasonable attorney's fees and costs.

5 (r) A rental company that brings an action against a renter for  
6 loss due to theft of the vehicle shall bring the action in the county  
7 in which the renter resides or, if the renter is not a resident of this  
8 state, in the jurisdiction in which the renter resides.

9 (s) A waiver of any of the provisions of this section shall be  
10 void and unenforceable as contrary to public policy.

11 (t) (1) A rental company's disclosure requirements shall be  
12 satisfied for renters who are enrolled in the rental company's  
13 membership program if all of the following conditions are met:

14 (A) Prior to the enrollee's first rental as a participant in the  
15 program, the renter receives, in writing, the following:

16 (i) All of the disclosures required by paragraph (1) of subdivision  
17 (g), including the terms and conditions of the rental agreement  
18 then in effect.

19 (ii) An Internet Web site address, as well as a contact number  
20 or address, where the enrollee can learn of changes to the rental  
21 agreement or to the laws of this state governing rental agreements  
22 since the effective date of the rental company's most recent  
23 restatement of the rental agreement and distribution of that  
24 restatement to its members.

25 (B) At the commencement of each rental period, the renter is  
26 provided, on the rental record or the folder in which it is inserted,  
27 with a printed notice stating that he or she had either previously  
28 selected or declined an optional damage waiver and that the renter  
29 has the right to change preferences.

30 (C) At the commencement of each rental period, the rental  
31 company provides, on the rearview mirror, a hanger on which a  
32 statement is printed, in a box, in at least 12-point boldface type,  
33 notifying the renter that the collision damage waiver offered by  
34 the rental company may be duplicative of coverage that the  
35 customer maintains under his or her own policy of motor vehicle  
36 insurance. If it is not feasible to hang the statement from the  
37 rearview mirror, it shall be hung from the steering wheel.

38 The hanger shall provide the renter a box to initial if he or she  
39 (not his or her employer) has previously accepted or declined the  
40 collision damage waiver and that he or she now wishes to change

1 his or her decision to accept or decline the collision damage waiver,  
2 as follows:

3 “☐ If I previously accepted the collision damage waiver, I  
4 now decline it.

5 ☐ If I previously declined the collision damage waiver, I now  
6 accept it.”

7 The hanger shall also provide a box for the enrollee to indicate  
8 whether this change applies to this rental transaction only or to all  
9 future rental transactions. The hanger shall also notify the renter  
10 that he or she may make that change, prior to leaving the lot, by  
11 returning the form to an employee designated to receive the form  
12 who is present at the lot where the renter takes possession of the  
13 car, to receive any change in the rental agreement from the renter.

14 (2) (A) This subdivision is not effective unless the employee  
15 designated pursuant to subparagraph (E) of paragraph (8) of  
16 subdivision (a) is actually present at the required location.

17 (B) This subdivision does not relieve the rental company from  
18 the disclosures required to be made within the text of a contract  
19 or holder in which the contract is placed; in or on an advertisement  
20 containing a rental rate; or in a telephonic, in-person, or  
21 computer-transmitted quotation or reservation.

22 *(u) (1) Notwithstanding any other law, a rental company shall*  
23 *not rent a vehicle to an authorized driver if the vehicle is subject*  
24 *to a safety recall pursuant to federal law governing motor vehicle*  
25 *defect and noncompliance notification (Part 577 (commencing*  
26 *with Section 577.1) of Title 49 of the Code of Federal Regulations),*  
27 *unless the repairs required to comply with that federal law have*  
28 *been performed on the vehicle.*

29 *(2) For purposes of this subdivision, a notice of a safety recall*  
30 *to a rental company shall be deemed notice to each of its*  
31 *subsidiaries, and notice to any subsidiary of a rental company*  
32 *shall be deemed notice to its parent company.*

33 ~~(t)~~

34 (v) The amendments made to this section during the 2001–02  
35 Regular Session of the Legislature do not affect litigation pending  
36 on or before January 1, 2003, alleging a violation of Section 22325  
37 of the Business and Professions Code as it read at the time the  
38 action was commenced.

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